

REMARKS

Claims 1 – 6 are pending in the present application.

OBJECTED CLAIM

Applicants thank the Examiner for indicating that claim is objected to as being dependent on rejected base claim 1, but would be allowable if rewritten to include all of the limitations of claim 1. For the reasons provided below, Applicants respectfully submit that claim 1 is allowable. Accordingly, Applicants respectfully request that the objection to claim 2 be withdrawn.

REJECTION UNDER 35 U.S.C. §§ 102, 103

Claims 4 – 6 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,625,764 to Dawson. Claims 1 and 3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dawson in view of U.S. Patent No. 5,477,531 to McKee et al. Applicants respectfully traverse these rejections.

Applicants disclose a testing apparatus for generating, transmitting and receiving test packets. Each of a generating part in the transmitting part and a checking part in the receiving part includes separate header, identifier, serial number and test data parts for generating or checking associated portions of a test packet. The sequence and operation of each of these parts is controlled by various setting values.

The Dawson reference qualifies as a reference for each of the cited rejection only under 35 U.S.C. § 102(e), having a filing date of November 28, 2000. At the time of filing of the present application, a priority claim was made under 35 U.S.C. § 119 to Japanese Patent Application No. 2000-343466, filed on November 10, 2000. Upon information and belief, a certified copy of the priority document and priority claim were filed together with the present application on March 26, 2001.

Accordingly, under 35 U.S.C. § 119(a), the present application is afforded an effective date of invention of November 10, 2000, which precedes the filing date of the Dawson reference. As a result, the Dawson reference must be removed as a reference under 35 U.S.C. §§ 102, 103. In compliance with 35 U.S.C. § 119(b)(3), Applicants file a certified English translation of the priority document as a part of the present Response.

McKee discloses a method and apparatus for testing a packet-based network (see, e.g., abstract of McKee). McKee teaches a test sequence program for generating and transmitting a predetermined test sequence according to test specifications (see, e.g., column 4, lines 25 – 40). Unlike Applicants' claimed invention, McKee fails to disclose or otherwise suggest a test packet generating part that outputs an updated address in accordance with a first setting value, and selectively outputs one of fixed test data and updated test data in accordance with a second setting value.

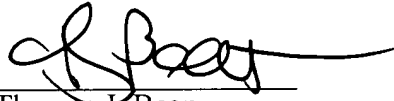
CONCLUSION

In view of the amendments and set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully

requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Bean', written over a horizontal line.

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